



STATE OF HAWAII
DEPARTMENT OF HEALTH
P. O. Box 3378
Honolulu, HI 96801-3378
doh.testimony@doh.hawaii.gov

Testimony in SUPPORT of HB1140 H.D.1
RELATING TO CESSPOOLS

REPRESENTATIVE SYLVIA LUKE, CHAIR
HOUSE COMMITTEE ON FINANCE

Hearing Date: February 27, 2015
Time: 11:00 a.m.

Room Number: 308

- 1 **Fiscal Implications:** This measure may impact the priorities as set forth in the Governor's Executive
- 2 Budget.
- 3 **Department Testimony:** The Department supports the concept of establishing a program that would
- 4 provide financial assistance to taxpayers who upgrade their existing cesspools. However, the measure
- 5 must not adversely impact the priorities as set forth in the Governor's Executive Budget.
- 6 Thank you for the opportunity to testify.
- 7 **Offered Amendments:** None.

DAVID Y. IGE
GOVERNOR

SHAN TSUTSUI
LT. GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809
PHONE NO: (808) 587-1540
FAX NO: (808) 587-1560

MARIA E. ZIELINSKI
DIRECTOR OF TAXATION

To: The Honorable Sylvia Luke, Chair
and Members of the House Committee on Finance

Date: Friday, February 27, 2015
Time: 11:00 A.M.
Place: Conference Room 308, State Capitol

From: Maria E. Zielinski, Director
Department of Taxation

Re: H.B. 1140, H.D. 1, Relating to Cesspools

The Department of Taxation (Department) appreciates the intent of this measure to protect the environment and defers to the Department of Health on the merits of the measure and provides the following comments regarding H.B. 1140, H.D. 1 for your consideration.

H.B.1140, H.D. 1 provides a refundable income tax credit to an individual or corporate taxpayer for the cost of converting a cesspool to a septic system or to an aerobic treatment unit system, or for the cost of connecting a cesspool to a sewer system. The credit amount is not specified in the measure, and would apply to taxable years beginning after December 31, 2015, and would be repealed on December 31, 2020.

Because the Department has no expertise in cesspools, septic systems, or aerobic treatment unit systems, the Department requests that the taxpayers be required to obtain verification from the respective county agencies in charge of issuing permits for such installations, and the credit be available only after such county agency has approved the installation as meeting the requirements for the credit, and only in such year in which such approval is obtained.

The Department notes that the credit is available only to individual and corporate taxpayers. Thus, partnerships, estates, and trusts would not be eligible for the credit. It is not clear to the Department whether this omission is intentional or inadvertent. If inadvertent, subsection (a) should be amended as follows:

(a) There shall be allowed to each taxpayer subject to the tax imposed under this chapter, a cesspool upgrade, conversion, or connection income tax credit which shall be deductible against the taxpayer's net income tax liability, if any, imposed by this chapter for the taxable year in

which the credit is properly claimed.

In addition, a new subsection would need to be added to resolve the situations in which the taxpayer is a partnership, S corporation, estate, or trust:

In the case of a partnership, S corporation, estate, or trust, the tax credit allowable is for qualified costs incurred by the entity for the taxable year. The cost upon which the tax credit is calculated shall be determined at the entity level. Distribution and share of credit shall be determined by rule.

Finally, the Department notes that this tax credit is refundable. As a general matter, the Department prefers nonrefundable credits because refundable credits create the potential for wrongful claims and abuse.

Thank you for the opportunity to provide comments.

Karen Eoff
Council Member
District 8, North Kona
Chair, Finance Committee



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HAWAI'I COUNTY COUNCIL

County of Hawai'i
West Hawai'i Civic Center, Bldg. A
74-5044 Ane Keohokalole Hwy.
Kailua-Kona, Hawai'i 96740

February 25, 2015

House Committee on Finance
Representative Sylvia Luke, Chair
Representative Scott Y. Nishimoto, Vice Chair

Email: FINtestimony@capitol.hawaii.gov
Email: repluke@capitol.hawaii.gov
Email: repnishimoto@capitol.hawaii.gov

Re: **Testimony In Support of HB 1140, HD1, Relating to Cesspools**
Hearing: February 27, 2015, 11:00 a.m. – Room 308

Dear Representatives:

On behalf of myself and my constituents of Council District 8, North Kona, I am in support of the above referenced bill, and submit a brief testimony as follows:

This bill provides for temporary income tax credits for the qualified expenses of cesspool upgrades, converting from a cesspool to a septic system, or aerobic treatment unit, or connecting a cesspool to a sewer system. This bill also requires the taxpayer to provide reasonable information for validity of claims made.

Passing this bill would be in the best interest of our County and I therefore strongly urge the passing of HB1140, HD1.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in cursive script that reads "Karen Eoff".

KAREN EOFF, Council Member
District 8, North Kona

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Tax credit for cesspool conversion

BILL NUMBER: HB 1140, HD-1

INTRODUCED BY: House Committee on Energy and Environmental Protection

EXECUTIVE SUMMARY: This measure adds a tax credit for cesspool upgrade, conversion or connection. The proposed credit is simply a subsidy of the favored activity, with an unknown price tag, that needs to be paid for by the rest of us who are not so favored.

BRIEF SUMMARY: Adds a new section to HRS chapter 235 to allow a taxpayer to claim a cesspool upgrade, conversion or connection tax credit of ____% of the qualified expenses of a taxpayer or \$____, whichever is less. There shall be a maximum of one tax credit per cesspool. Defines “qualified expenses” as costs necessary and directly incurred by the taxpayer for upgrading or converting a cesspool into a septic system or an aerobic treatment unit system, or connecting a cesspool to a sewer system. Defines “aerobic treatment system,” “cesspool,” “septic system,” “sewer system” and “wastewater” for purposes of the measure.

Tax credits in excess of a taxpayer’s tax liability shall be refunded to the taxpayer provided such amounts are in excess of \$1. Requires all claims, including amended claims, to be filed on or before the end of the twelfth month following the close of the taxable year for which the credit may be claimed. Failure to comply with the foregoing provision shall constitute a waiver of the right to claim the credit. Directs the director of taxation to prepare the necessary forms to claim a credit under this section.

This section shall not be applicable to tax years beginning after December 31, 2020. Repeals this act on December 31, 2020.

EFFECTIVE DATE: Tax years beginning after December 31, 2015

STAFF COMMENTS: This measure proposes a tax credit for conversion or hookup of a cesspool to a septic system or sewer system. While the measure allows taxpayers to claim the credit regardless of a taxpayer’s need for tax relief, the proposed credit is nothing more than a partial subsidy by the state to taxpayers for such conversion with absolutely no indication of the taxpayer’s need for that subsidy. This type of targeted tax incentive creates winners and losers, the winners being those in the favored industry who receive the incentives and the losers being the rest of us who have to pay for them.

When judging targeted tax incentives such as this one, we all should be mindful of these observations of the 2001-2003 Tax Review Commission: *“Targeted tax incentives are generally only demonstrably good for those relatively few taxpayers that qualify for the benefits, and may not be demonstrably good for anyone else. They are not supported by rules of sound tax policy. In the first instance, they decrease State revenue and add complexity to the tax system. They may also be unfair to other businesses. Almost all of the present incentives lack accountability, and therefore create something of a “black hole” in State fiscal responsibility. A targeted tax incentive does not appropriate hard earned and*

increasingly scarce revenues. Rather, it creates a tax benefit of unknown proportions against future revenues, before the revenues are collected and subjected to the legislative appropriation process.”

Appropriations to favored businesses, or subsidies, are rarely enacted. Every public appropriation is publicly scrutinized. A tax incentive is a potential “black hole,” because it is a future benefit of unknown proportions which is determined by the favored taxpayer’s interpretation of what the tax credit should be and is claimed on a tax return which is confidential.

Digested 2/25/15

finance8-Melanie

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 24, 2015 9:42 PM
To: FINTestimony
Cc: darakawa@lurf.org
Subject: Submitted testimony for HB1140 on Feb 27, 2015 11:00AM

HB1140

Submitted on: 2/24/2015

Testimony for FIN on Feb 27, 2015 11:00AM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
David Z. Arakawa	Land Use Research Foundation of Hawaii	Support	No

Comments: The Land Use Research Foundation of Hawaii SUPPORTS HB 1140, HD1, Relating to Cesspools, which provides a temporary income tax credit for the cost of upgrading or converting a cesspool to a septic system or an aerobic treatment unit system, or connecting to a sewer system. (HB1140 HD1)

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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Phone: (808) 848-2074; Fax: (808) 848-1921
e-mail info@hfbf.org; www.hfbf.org

February 27, 2015

HEARING BEFORE THE
HOUSE COMMITTEE ON FINANCE

TESTIMONY ON HB 1140 HD 1
RELATING TO CESSPOOLS

Room 308
11:00 AM

Aloha Chair Luke, Vice Chair Nishimoto, and Members of the Committee:

I am Christopher Manfredi, President of the Hawaii Farm Bureau (HFB). Organized since 1948, the HFB is comprised of 1,932 farm family members statewide, and serves as Hawaii's voice of agriculture to protect, advocate and advance the social, economic and educational interests of our diverse agricultural community.

The Hawaii Farm Bureau supports HB 1140, HD 1. Our farmer and rancher members across the islands could benefit from this effort to mitigate the financial hardship that would be caused by any future mandatory cesspool conversions.

To protect the quality of Hawaii's near shore waters and drinking water supplies, HFB believes that cesspools which pose a risk to the ocean, surface, or ground water should be converted to septic systems, or where available, a sewer connection should be made to a county treatment system. Because the cost to upgrade is substantial, reportedly approximately \$20,000 per cesspool, Hawaii may accomplish these conversions more quickly if owners have assistance through tax incentives.

Several months ago, the State Department of Health proposed an extremely broad brush regulation to mandate elimination of all cesspools statewide within 180 days of a sale of the subject property. Farmers, homeowners, and others were alarmed that they would be subject to the exorbitant and unexpected costs associated with such a project.

HFB did not agree that every cesspool in the state, even those that pose very little or no risk to either groundwater or surface water quality, needs to be converted, nor do we believe that conversions should be mandatory in the rushed and arbitrary manner proposed by the Department. Additionally, we do not believe that the DOH proposed point of sale approach is appropriate, as it would require many cesspools that are not contributing to water quality degradation to be upgraded, while allowing cesspools that may be causing problems to continue to operate indefinitely, so long as the property is not sold.

HB 1140 HD 1 would help Hawaii phase out of inappropriately sited cesspools. It follows the lead of other states which have provisions for tax credits to help fund cesspool conversion.

Thank you for the opportunity to testify in support of this bill.

Testimony of The Nature Conservancy of Hawai'i
Supporting H.B. 1140 HD1 Relating to Cesspools
House Committee on Finance
Friday, February 27, 2015, 11:00AM, Room 308

For more than 35 years, The Nature Conservancy of Hawai'i has been working closely with government agencies, local businesses, private landowners, non-profit partners, and interested communities across the state to preserve the lands and waters upon which all life in these islands depends. The Conservancy is a private non-profit conservation organization that has helped to protect nearly 200,000 acres of natural lands in Hawai'i. Today, we actively manage more than 35,000 acres in 11 nature preserves on Maui, Hawai'i, Moloka'i, Lāna'i, and Kaua'i, and support 19 coastal communities seeking to co-manage marine resources in partnership with the State of Hawai'i.

The Nature Conservancy supports H.B. 1140 HD1 to provide a temporary income tax credit to incentivize cesspool replacement.

We also recognize that the much larger issue of wastewater impacts on coral reefs, near shore waters, and human health come from untreated sewage overflowing from overburdened wastewater treatment facilities and underground injection wells, especially on Maui and Hawai'i island. We urge the State and counties to consider a thorough review, repair, and retrofit of wastewater treatment facilities, especially if the State will be requiring more people to connect to those already overburdened facilities.

Scientists estimate that populations of many of Hawai'i's near shore reef fishes have declined by more than 75% over the past 100 years. Marine managers, community stewards, and scientists across the state are also cataloguing and working to address increased instances of coral disease, bleaching and reef smothering alien algae. Scientific analysis together with long-term community experience and observation suggest that a number of factors are contributing to and exacerbating these threats to Hawai'i's marine health, including over-harvesting of fishes, land-based sources of pollution, as well as higher temperatures and acidification due to human induced climate change. Degradation of Hawai'i's reefs and near shore environments is not only a detriment to our health and quality of life, but also a grave loss to Hawai'i's economy, safety, and to a cultural heritage that is unique in the world.

Effluent from cesspools – including untreated human waste, bacteria, viruses, pharmaceuticals, cleaning products, nitrogen, phosphorus, and other contaminants – is discharged directly into the ground. From there, these pollutants can make their way into groundwater systems and near shore marine environments. In coastal areas in Hawai'i with porous soils and substrates, studies have shown that waste from cesspools can reach near-shore waters within a matter of minutes to just a few days. Replacing these coastal cesspools should be a priority.

Caring for the health and future productivity of Hawai'i's fresh and marine waters requires a combination of strategies in an ahupua'a approach. Taking care of watershed forests, upgrading wastewater treatment systems, enhancing water re-use, preventing and controlling invasive species, encouraging responsible resource use, and retiring and replacing outdated infrastructure are all a part of the solution to the variety of threats we face. Prohibiting new cesspools and replacing old ones is one important component of this collective effort.

Thank you for the opportunity to comment.

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February 27, 2015

The Honorable Sylvia Luke, Chair

House Committee on Finance

State Capitol, Room 308

Honolulu, Hawaii 96813

RE: H.B. 1140, H.D.1, Relating to Cesspools

HEARING: Friday, February 27, 2015, at 11:00 a.m.

Aloha Chair Luke, Vice Chair Nishimoto and Members of the Committee:

I am Myoung Oh, Government Affairs Director, here to testify on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i, and its 8,400 members. HAR **supports the intent** of H.B. 1140, H.D.1, which provides a temporary income tax credit for the cost of converting a cesspool to a septic system or an aerobic treatment unit system or connecting to a sewer system.

The Department of Health (DOH) has proposed changes to Hawai'i Administrative Rules, Chapter 11-62, relating to Wastewater Systems. Under the proposed rules, an estimated cesspool residential property count of 50,000 on Hawai'i, 14,000 on Kaua'i, 12,000 on Maui, 11,000 on Oahu, and 1,400 on Molokai would be affected. Additionally, the cost to convert each cesspool system could range from \$10,000, to \$30,000.

Under the proposed rules, it would create a point of sale mandate by requiring cesspool closure and conversion to either a septic system or public sewer system at the next conveyance or sale of a property. HAR expressed concerns that a property could take years, if ever, before it is sold or transferred, all while the cesspool could be one in a high risk area, as established by the 2014 Geology and Geophysics Report prepared for the DOH.

HAR believes that managing wastewater and its effects on Hawaii's water quality is important. However, it should be done in a rational and practical manner. This proposal is a good and practical approach towards incentivizing owners to voluntarily convert their cesspool systems. Furthermore, this will help homeowners with the large cost to convert a cesspool system.

Mahalo for the opportunity to testify.

finance1-Kim

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 26, 2015 11:24 AM
To: FINTestimony
Cc: nikki2244@gmail.com
Subject: *Submitted testimony for HB1140 on Feb 27, 2015 11:00AM*

HB1140

Submitted on: 2/26/2015

Testimony for FIN on Feb 27, 2015 11:00AM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Nicole Chatterson	Individual	Support	No

Comments:

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FIN-Jo

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 26, 2015 8:09 AM
To: FINTestimony
Cc: douglasperrine@yahoo.com
Subject: Submitted testimony for HB1140 on Feb 27, 2015 11:00AM

HB1140

Submitted on: 2/26/2015

Testimony for FIN on Feb 27, 2015 11:00AM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Douglas Perrine	Individual	Support	No

Comments: This measure will benefit both our environment and public health. It works by recognizing that a carrot works better than a stick, and provides an incentive, rather than coercion. It also recognizes that when any citizen upgrades their sewage treatment, it benefits all citizens of the state, so it's only fair that all citizens should share in the costs, through our tax system. I fully support this bill.

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**HAWAII OPERATING ENGINEERS
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February 27, 2015

Honorable Sylvia Luke, Chair
Honorable Scott Y. Nishimoto, Vice Chair
And Members of the Committee on Finance
415 South Beretania Street, Room 306
Honolulu, HI 96813

LATE

RE: Support of HB 1140, HD1 – Relating to Cesspools

Chair Luke and Members of the Committee,

My name is Kimberly Ribellia, Government Liaison, of the Hawaii Operating Engineers Industry Stabilization Fund (HOEISF), a labor management fund representing 4000 unionized members in heavy engineering site work and 500 general contractors specializing in heavy site and vertical construction.

HOEISF supports House Bill 1140, HD1 which provides a temporary income tax credit for the cost of upgrading or converting a cesspool to a septic system or an aerobic treatment unit system, or connecting to a sewer system.

HOEISF supports any and all efforts to encourage homeowners to upgrade or convert their cesspool to a septic system. Providing a tax credit will lessen the burden of installing a septic system that can costs up to \$17,000.

Thank you for this opportunity to testify in this matter.

Sincerely,

A handwritten signature in black ink that reads 'Kimberly Ribellia'.

Kimberly Ribellia
Government Liaison
HOEISF



Feb. 16, 2015

Committee Chairs & Members of Finance (FIN)

RE: Strong Support for HB 1140 – Relating to Income Tax Credits for Cesspool Upgrades

Hearing on Fri., 2/27, State Capitol, Conf. Rm. 308, 11:00am.

Dear Chair Luke, Vice Chair Nishimoto, and Committee Members,

As the Hawaii Regional Manager of the Surfrider Foundation, I'm writing in strong support passage of HB 1140. With more than 5000 activists and members across the state, the Hawaii Chapters of The Surfrider Foundation strongly support efforts to provide temporary income tax credits for the conversion of cesspools to upgraded individual wastewater systems such as septic and sewer. The non-point source discharge from cesspools in Hawaii is a serious threat specifically to streams, groundwater and coastal waters, and this bill offers a sensible and overdue solution to help homeowners upgrade their systems.

With about 90,000 across the state, Hawaii has the highest number of cesspools in the country, and many of those near streams, groundwater systems and coastal areas pose a threat to water resources. **Hawaii is also the only state that still allows construction of new cesspools--Rhode Island was the last to ban them almost 50 years ago!** These substandard wastewater systems leach untreated human waste, harmful pathogens and nutrient loads into nearby waters. Cesspools are a leading source of water pollution, and their effluent can contaminate drinking water sources, streams and oceans with disease-causing pathogens, algae-causing nutrients and other harmful substances.

In monitoring the water quality of North Shore beaches on Kauai, the Chapter has seen improvement after the replacement of cesspools at Kauai County beach parks and along the Hanalei River. After the new system was installed, enterococcus counts at the beach at the Hanalei Pavilion and at the Hanalei River estuary decreased approximately 56% between 2004 and 2013. Where sewer connections are not available, septic systems are a step forward in protecting public health and the environment. We also support creating a special fund in the Department of Health for loans to low-income homeowners, and we ask them to prioritize banning cesspools within 200 feet of the shoreline or waterways because they are the most dangerous.

This bill is needed because cesspools pose public health and environmental problems, and income tax credits will help homeowners upgrade to septic systems. Individual homeowners, counties and the state need to work together to conform to federal EPA standards and take responsibility for the very negative impact cesspools have upon the environment, public health, tourism, and economic growth in Hawaii. Mahalo for your consideration and leadership in dealing with these water quality issues and please feel free to contact me if you have any questions or suggestions.

Sincerely,
Stuart Coleman
Stuart H. Coleman
Hawaii Regional Manager